THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.15709 OF 2006

DATED: 28TH JULY, 2006.

Between :

1. Smt. Gopisetty Seethamahalakshmi and another .. Petitioners

And

1. The Bank of Maharashtra, Regional Office, Hyderabad-500 001 and 4 others. .. Respondents

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ORDER:

This writ petition is filed seeking a declaration that the Notice dated 10-2-2006 issued by the 1st respondent – Bank of Maharashtra, is arbitrary and illegal.

A perusal of the impugned notice shows that the 1st respondent having invoked the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Securitisation Act') called upon the petitioners to repay a sum of Rs.24,03,409-93 ps together with interest within 60 days from the date of receipt of the notice failing which the bank will exercise its powers under Section 13 (4) of the Securitisation Act.

Under Section 13 (3A) of the Securitisation Act, as inserted by Amendment Act, 2004 w.e.f. 11-11-2004 on receipt of notice under sub-section (2) of Section 13 of the Securitisation Act, it is always open to the borrower to make a representation raising objections. If any such objections are raised, the secured creditor shall consider the same and in case the secured creditor comes to a conclusion that the objections are not acceptable or tenable, he shall communicate the reasons for non-acceptance of the representation/objections to the borrower.

In the case on hand, the petitioners stated that though they made representation dated 20.2.2006, raising various objections to the proceedings initiated under the Securitisation Act, the respondents failed to consider the same, and nothing has been communicated either accepting or rejecting the objections raised by them.

Having regard to the fact that in pursuance of the notice issued under Section 13(2) of the Securitisation Act, the petitioners have already raised objections, without considering the same in terms of sub-section (3-A) of Section 13 of the Securitisation Act, the respondents cannot take further steps under the Securitisation Act.

Accordingly, the Writ Petition is disposed of with a direction to the respondents 1 and 2 to consider the objections raised by the petitioners in response to the impugned notice under Section 13 (2) of the Act and pass appropriate orders in accordance with law. Till such time, the respondents are directed not to take any coercive steps against the petitioners under the Securitisation Act. No costs.

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(G. ROHINI, J.)

28th July, 2006.
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Note:- Cc by 31-7-2006.

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